

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

V.

ALBERT GONZALEZ,

Defendant

Criminal No. 09-10382-DPW

Oral Argument Requested

**MOTION TO INTERVENE UNDER CRIME VICTIMS' RIGHTS ACT, 18 U.S.C. § 3771,
FOR THE LIMITED PURPOSE OF SEEKING ENTRY OF
PROTECTIVE ORDER AND TO SEAL**

Pursuant to 18 U.S.C. §3771(a)(4), (a)(8), and (d)(1), and Local Rules 7.1 and 7.2, Company A, a victim of defendant Albert Gonzalez’ alleged criminal conduct in this action, hereby moves to intervene for the limited purpose of seeking a protective order that prohibits the District of Massachusetts, a transferee district under Rule 20, Fed. R. Crim. P., and the defendant from publicly identifying Company A in this matter. Company A also respectfully requests that it be heard by the Court on the proposed protective order and that this motion and enclosed memorandum and Declaration of Kevin G. Walsh be sealed

As grounds for this Motion, Company A states that it is a victim of the computer crime alleged in this case. Even though Company A's computers were attacked, the government does not allege that any customer data was taken. Thus, the only victim the government has identified of the defendant's alleged crime in this instance is Company A. As a victim, Company A has a statutory right to privacy. That right was honored by the District of New Jersey, which brought this case. That District agreed not to publicly disclose Company A's identity and did not do so. This case has been transferred to Massachusetts for plea and disposition pursuant to Rule 20. Solely because of that happenstance, the government now reverses course, and has indicated that

it will no longer forbear from such disclosure and will disclose Company A's identity publicly through a Rule 12.4 filing and perhaps otherwise. Because divulging Company A's identity is unnecessary, would only cause financial harm to the company, alarm customers needlessly, deter corporate victims from cooperating in future criminal investigations, and undermine the purposes behind Rule 20, Company A seeks a limited right to intervene in this action to request a protective order be issued prohibiting the government or defendant from publicly identifying Company A.

In further support of this motion, Company A submits herewith a Memorandum and the Declaration of Kevin G. Walsh. Company A requests that these materials be sealed, as the Memorandum provides information to the Court from which Company A's identity can be determined.

WHEREFORE, victim Company A respectfully requests that the Court grant its motion, permitting it to intervene, grant a protective order maintaining the government's Rule 12.4 disclosure under seal, prohibit the government of defendant from publicly disclosing Company A's identity, seal these submissions, and grant such other relief as the Court deems just and equitable.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rules 7.1(D) Company A respectfully requests a hearing on this motion.

LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel for the Company A has conferred pursuant to Local Rule 7.1(A)(2) with the parties regarding the issues presented by this motion. The United States assents to Company A's intervention only. In all other respects, Company A has been unable to reach agreement on the motion.

Respectfully submitted,

COMPANY A,

By its attorneys,

/s/ Michael D. Ricciuti

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Dated: December 24, 2009

CERTIFICATE OF SERVICE

I hereby certify that this document was served via electronic mail this 24th day of December 2009:

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